

REMARKS

In the Office Action, claims 1-5 and 9 were rejected under 35 U.S.C. 112, first paragraph. Claims 1-4 were rejected under 35 U.S.C. 102 as anticipated by U.S. Patent No. 4,710,180 to Johnson. Claims 6-8 and 10-12 were allowed.

The courtesy extended by Examiner Davis in the telephone conversation with the undersigned on January 19, 2005 is acknowledged with appreciation. During the conversation we discussed claim 1 concerning determining entry of the elongated instrument into the vessel lumen. The Examiner requested it be stated more positively. We also discussed that the IDS Forms PTO-1449 filed August 6, 2003 were not initialed. Examiner Davis indicated they were not in the file and agreed that a copy of the IDS should be faxed. A copy of the IDS and stamped postcard receipt were sent by facsimile on January 21, 2005.

To comply with the Examiner's request, applicant has amended claim 1 to recite the step of determining entry of the elongated instrument into the vessel lumen by detecting movement of the plunger to eject the fluid. This step of determining entry is believed along the lines requested by the Examiner who contended "to determine entry" was not a sufficiently positive recitation. Applicants submit that the anticipation rejection should now be withdrawn. Not only doesn't Johnson teach or suggest entry into the vessel lumen for locating a vessel lumen, but teaches away from such entry:

Owing to the blunt, smooth surface 22 at the end of the needle distal portion, the needle does not penetrate any blood vessels during its insertion. (col. 3, lines 37-40)

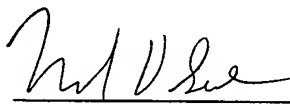
With respect to the rejection under 35 U.S.C. 112, first paragraph, claim 1 has been amended to recite the elongated instrument is inserted through the tissue and claim 9 has been amended to recite withdrawing the patch member toward the internal opening of the vessel wall to press against an internal wall of the vessel. The rejection under 35 U.S.C. 112 is believed overcome and withdrawal of the rejection is respectfully requested. Claim 2 has been amended to conform to the language changes to Claim 1.

The foregoing amendments are also believed to obviate the rejection of dependent Claims 2-5 which depend from Claim 1.

The present application is now believed in condition for allowance. Prompt and favorable reconsideration of the present application is respectfully requested. The Examiner is invited to contact the undersigned should the Examiner believe it would expedite prosecution.

Respectfully submitted,

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